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State of Utah

Department of
Environmental Quality

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Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

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Governor

GARY HERBERT
Lieutenant Governor

March 24, 2006

CERTIFIED MAIL
(Return Receipt Requested)

Mr. David Spillman
Canyon Fuel Company, LLC-Soldier Canyon Mine
P.O. Box 1029
Wellington, Utah 84542

Subject: Issuance of UPDES Renewal Permit No. UT0023680

Dear Mr. Spillman:

Enclosed is the signed UPDES Renewal Permit No. UT0023680 for your facility. Copies of EPA form 3320-1, Discharge Monitoring Report (DMR) forms, for reporting and self-monitoring requirements as specified in the permit, are available upon request. This permit will become effective on April 1, 2006, subject to the right to challenge this decision in accordance with the provisions of *Utah Administrative Code*, Section R317-9.

A fee schedule was included in the Utah Department of Environmental Quality Budget appropriation request at the direction of the Legislature and in accordance with *Utah Code Annotated* 19-1-201. The fee schedule, as approved by the Legislature, includes a prescribed fee for specific Industrial Categories. The prescribed fee for the UPDES Coal Mining Individual Minor Permit category is \$3,600.00. Therefore, please remit \$3,600.00 within 30 days from receipt of this letter to:

Department of Environmental Quality
Division of Water Quality
Attn: Stacy Carroll
P.O. Box 144870
Salt Lake City, UT 84114-4870

Please be sure to include the invoice number with you remittance.

*Meaning
4/07/0018
Copy for
UPDES
Bridget
8-mail
Steve J. L. H.*

MAR 27 2006

Also, as the state agency charged with the administration of issuing UPDES permits and associated modifications, we are continuously looking for ways to improve our quality of service to you. In effort to improve the State UPDES permitting process we are asking for your input. Since our customer permittee base is limited, your input is important. Please take a few moments to complete the enclosed questionnaire and return it in the postage paid, self-addressed return envelope. The results will be used to improve our quality and responsiveness to our permittees and give us feedback on customer satisfaction. We will address the issues you have identified on an ongoing basis.

If you have any questions, please contact Jeff Studenka at (801) 538-6779 or by e-mail at jstudenka@utah.gov.

Sincerely,



Mike Herkimer, Manager
UPDES Permits Section

MDH: JAS

Enclosures

cc: Qian Zhang, EPA Region VIII
Claron Bjork, Southeastern Utah District Health Department
Dave Ariotti, DEQ District Engineer
Pam Grubaugh-Littig, Utah Division of Oil Gas & Mines
Jim Karpowitz, Utah Division of Wildlife Resources
Nathan Darnall, United States Fish and Wildlife Services

Permit No. UT0023680
Minor Industrial

STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH

AUTHORIZATION TO DISCHARGE UNDER THE
UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM
(UPDES)

In compliance with provisions of the *Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"),

Canyon Fuel Company, LLC - Soldier Canyon Mine

is hereby authorized to discharge from its facility located at thirteen miles northeast of Wellington, Utah, with the outfalls:

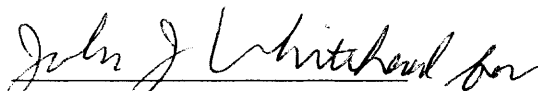
001 located at latitude **39°42'02"** and longitude **110°36'39"**,
002 located at latitude **39°41'52"** and longitude **110°36'46"**,
003 located at latitude **39°42'09"** and longitude **110°36'38"**,

to receiving waters named **Soldier Creek** (a tributary of the Colorado River) in accordance with discharge points, effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on April 1, 2006

This permit and the authorization to discharge shall expire at midnight, March 31, 2011

Signed this 24th day of March, 2006



Walter L. Baker, P.E.
Executive Secretary
Utah Water Quality Board

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EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Definitions.

1. The "7-day (and weekly) average" is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.
2. "10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable reoccurrence interval of once in 10 years. This information is available in *Weather Bureau Technical Paper No. 40*, May 1961 and *NOAA Atlas 2*, 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.
3. The "30-day (and monthly) average" is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
4. "Act" means the "*Utah Water Quality Act*".
5. "Acute toxicity" occurs when 50 percent or more mortality is observed for either test species at any effluent concentration.
6. "Best Management Practices" ("*BMPs*") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. *BMPs* also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
7. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
8. "CWA" means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.

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9. "Chronic toxicity" occurs when the survival, growth, or reproduction for either test species exposed to a dilution of percent effluent (or lower) is significantly less (at the 95 percent confidence level) than the survival, growth or reproduction of the control specimens.
10. "Coal pile runoff" means the rainfall runoff from or through any coal storage pile.
11. "Composite samples" shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the composite sample period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:
 - a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
 - b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
 - c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
 - d. Continuous collection of sample, with sample collection rate proportional to flow rate.
12. "Daily Maximum" ("Daily Max.") is the maximum value allowable in any single sample or instantaneous measurement.
13. "EPA" means the United States Environmental Protection Agency.
14. "Executive Secretary" means Executive Secretary of the Utah Water Quality Board.
15. "Flow-weighted composite sample" means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.
16. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
17. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
18. "Land application unit" means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for treatment or disposal.

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19. "Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a land application unit, surface impoundment, injection well, or waste pile.
20. "Point Source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharges. This term does not include return flows from irrigated agriculture or agriculture storm water runoff.
21. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
22. "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.
23. "Time-weighted composite" means a composite sample consisting of a mixture of equal volume aliquots collected at a constant time interval.
24. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
25. "Waste pile" means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

B. Description of Discharge Points.

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a UPDES permit is a violation of the *Act* and may be subject to penalties under the *Act*. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the *Act*.

Outfall Number

Location of Discharge Points

001

Discharge of mine water at Latitude 39° 42' 02" Longitude 110° 36' 39"

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002 Discharge of storm water at Latitude 39° 41' 52" Longitude 110° 36' 46"
003 Discharge of mine water at Latitude 39° 42' 09" Longitude 110° 36' 38"

C. Narrative Standard.

It shall be unlawful, and a violation of this permit, for the permittee to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste, or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures.

D. Specific Limitations and Self-monitoring Requirements.

1. Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfalls 001 & 003. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristics	<u>Discharge Limitations a/Monitoring Requirements</u>				Sample Type
	Average 30-Day	7-Day	Daily Maximum	Measurement Frequency	
Flow, MGD	0.5	NA	Report	Twice Monthly <u>b/</u>	Record <u>c/</u>
Total Suspended Solids, mg/L	25	35	70	Twice Monthly <u>b/</u>	Grab <u>e/</u>
Total Iron, mg/L	NA	NA	1.0	Twice Monthly <u>b/</u>	Grab <u>e/</u>
Oil & Grease, mg/L <u>d/</u>	NA	NA	10	Weekly	Visual/Grab
TDS, mg/L (tons/day)	NA	NA	1200 (5) <u>f/</u>	Twice Monthly	Grab <u>e/</u>

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units in any sample and shall be monitored twice monthly (b/) by a grab sample.

There shall be no visible sheen or floating solids or visible foam in other than trace amounts.

There shall be no discharge of sanitary wastes.

- a/ See Definitions, *Part I.A* for definition of terms. N.A. - Not Applicable.
- b/ If the average flow is greater than 0.5 MGD for three consecutive months, sampling frequency shall be weekly.
- c/ Pump readings may be used during freezing weather to measure flow.

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- d/ A grab sample for oil and grease is required only when a sheen is observed or there is another reason to believe oil is present and is limited to a maximum of 10 mg/L. A sample for oil and grease may be used instead of that week's visual observation.
- e/ These samples may also be a composite sample.
- f/ The sum of all discharges shall not exceed 5 tons/day.
2. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations: at the outfalls for 001 & 003 prior to mixing with any receiving water.
3. Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfall 002. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristics	<u>Discharge Limitations a/Monitoring Requirements</u>			Measurement Frequency	Sample Type
	Average 30-Day	7-Day	Daily Maximum		
Flow, MGD	0.5	NA	Report	Twice Monthly <u>b/</u>	Record <u>c/</u>
Total Suspended Solids, mg/L	25	35	70	Twice Monthly <u>b/</u>	Grab <u>e/</u>
Settleable Solids mL/L	NA	NA	0.5	Twice Monthly <u>b/</u>	Grab
Total Iron, mg/L	NA	NA	1.0	Twice Monthly <u>b/</u>	Grab <u>e/</u>
Oil & Grease, mg/L <u>d/</u>	NA	NA	10	Weekly	Visual/Grab
TDS, mg/L (tons/day)	NA	NA	1200 (5) <u>f/</u>	Twice Monthly	Grab <u>e/</u>

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units in any sample and shall be monitored twice monthly (b/) by a grab sample.

There shall be no visible sheen or floating solids or visible foam in other than trace amounts.

There shall be no discharge of sanitary wastes.

- a/ See Definitions, *Part I.A* for definition of terms. NA - Not Applicable.
- b/ If the average flow is greater than 0.5 MGD for three consecutive months, sampling frequency shall be weekly.
- c/ Pump readings may be used during freezing weather to measure flow.
- d/ A grab sample for oil and grease is required only when a sheen is observed or there is another reason to believe oil is present and is limited to a maximum of 10 mg/L. A sample for oil and grease may be used instead of that week's visual observation.

e/ These samples may also be a composite sample.

f/ The sum of all discharges shall not exceed 5 tons/day.

4. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: at the outfall for 002 prior to mixing with any receiving water
5. Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) at outfall 002 may comply with the following limitations instead of the otherwise applicable limitations:

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units. However, all effluent samples collected at 002 during storm water discharge events shall be analyzed for the parameters identified under Part I.D.3.

6. The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described in Part I.D.5. The alternate limitation in Parts I.D.5. shall not apply to treatment systems that treat underground mine water only.
7. The facility must minimize the discharge of salt by using the largest practicable amount of saline water for process and dust control. There shall be no use of gypsum for rock dusting unless the permittee provides sufficient information to the Executive Secretary such that approval is granted based upon the Colorado River Basin Salinity Control Forum Policies and the fact that it will not significantly increase total dissolved solids concentrations.

Storage piles of salt used for deicing or other industrial purposes shall be enclosed or covered to prevent exposure to precipitation, except for exposure resulting from adding or removing materials from the pile.

The permittee is required to make every effort to employ reasonable and appropriate BMPs to minimize the discharge of TDS.

II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under *Part I* shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to the use-disposal practice.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10*, unless other test procedures have been specified in this permit.
- C. Penalties for Tampering. The *Act* provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- D. Reporting of Monitoring Results. Monitoring results obtained during the previous month shall be summarized for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), post-marked no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part IV.G)*, and submitted to the Director, Division of Water Quality at the following addresses:
- original to: Department of Environmental Quality
 Division of Water Quality
 288 North 1460 West
 PO Box 144870
 Salt Lake City, Utah 84114-4870
- E. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.
- F. Additional Monitoring by the Permittee. If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under *UAC R317-2-10* or as otherwise specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.
- G. Records Contents. Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements:

2. The individual(s) who performed the sampling or measurements;
 3. The date(s) and time(s) analyses were performed;
 4. The individual(s) who performed the analyses;
 5. The analytical techniques or methods used; and,
 6. The results of such analyses.
- H. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Executive Secretary at any time. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location.
- I. Twenty-four Hour Notice of Noncompliance Reporting.
1. The permittee shall (orally) report any noncompliance which may seriously endanger health or environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of circumstances. The report shall be made to the Division of Water Quality, (801) 538-6146, or 24 hour answering service (801) 536-4123.
 2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4123 as soon as possible but no later than 24 hours from the time the permittee becomes aware of the circumstances:
 - a. Any noncompliance which may endanger health or the environment;
 - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See *Part III.G, Bypass of Treatment Facilities.*);
 - c. Any upset which exceeds any effluent limitation in the permit (See *Part III.H, Upset Conditions.*); or,
 - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit.
 3. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;

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- c. The estimated time noncompliance is expected to continue if it has not been corrected; and,
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
- 4. The Executive Secretary may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Division of Water Quality, (801) 538-6146.
- 5. Reports shall be submitted to the addresses in *Part II.D, Reporting of Monitoring Results*.
- J. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for *Part II.D* are submitted. The reports shall contain the information listed in *Part II.1.3*.
- K. Inspection and Entry. The permittee shall allow the Executive Secretary, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
 - 1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;
 - 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,
 - 4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the *Act*, any substances or parameters at any location.

III. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Executive Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions. The Act provides that any person who violates a permit condition implementing provisions of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions of the Act is subject to a fine not exceeding \$25,000 per day of violation; Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at *Part III.G, Bypass of Treatment Facilities* and *Part III.H, Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.
- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. Removed Substances. Collected screening, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not directly enter either the final effluent or waters of the state by any other direct route.
- G. Bypass of Treatment Facilities.
 - 1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance

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to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section. Return of removed substances, as described in *Part III.F*, to the discharge stream shall not be considered a bypass under the provisions of this paragraph.

2. Notice:

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.
- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under *Part II.I, Twenty-four Hour Reporting*.

3. Prohibition of bypass.

- a. Bypass is prohibited and the Executive Secretary may take enforcement action against a permittee for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage ;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
 - (3) The permittee submitted notices as required under paragraph 2 of this section.
- b. The Executive Secretary may approve an anticipated bypass, after considering its adverse effects, if the Executive Secretary determines that it will meet the three conditions listed above in paragraph 3.a of this section.

H. Upset Conditions.

- 1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph 2. of this section are met. Executive Secretary's administrative determination regarding a claim of upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.

2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under *Part II.I, Twenty-four Hour Notice of Noncompliance Reporting*; and,
 - d. The permittee complied with any remedial measures required under *Part III.D, Duty to Mitigate*.
 3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.
- I. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of *The Water Quality Act of 1987* for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- J. Changes in Discharge of Toxic Substances. Notification shall be provided to the Executive Secretary as soon as the permittee knows of, or has reason to believe:
1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 ug/L);
 - b. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/L) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(7)* or (10); or,
 - d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.
 2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- a. Five hundred micrograms per liter (500 ug/L);
- b. One milligram per liter (1 mg/L) for antimony;
- c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(9)*; or,
- d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.

K. Industrial Pretreatment. Any wastewaters discharged to the sanitary sewer, either as a direct discharge or as a hauled waste, are subject to Federal, State and local pretreatment regulations. Pursuant to Section 307 of *The Water Quality Act of 1987*, the permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at *40 CFR 403*, the State Pretreatment Requirements at *UAC R317-8-8*, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the wastewaters.

In addition, in accordance with *40 CFR 403.12(p)(1)*, the permittee must notify the POTW, the EPA Regional Waste Management Director, and the State hazardous waste authorities, in writing, if they discharge any substance into a POTW which if otherwise disposed of would be considered a hazardous waste under *40 CFR 261*. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).

IV. GENERAL REQUIREMENTS

- A. Planned Changes. The permittee shall give notice to the Executive Secretary as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, the permittee shall give notice to the Executive Secretary of any planned changes at least 30 days prior to their implementation.
- B. Anticipated Noncompliance. The permittee shall give advance notice to the Executive Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- C. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- D. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.
- E. Duty to Provide Information. The permittee shall furnish to the Executive Secretary, within a reasonable time, any information which the Executive Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Executive Secretary, upon request, copies of records required to be kept by this permit.
- F. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Executive Secretary, it shall promptly submit such facts or information.
- G. Signatory Requirements. All applications, reports or information submitted to the Executive Secretary shall be signed and certified.
 - 1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
 - 2. All reports required by the permit and other information requested by the Executive Secretary shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Executive Secretary, and,

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- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- 3. Changes to authorization. If an authorization under paragraph *IV.G.2* is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph *IV.G.2* must be submitted to the Executive Secretary prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- H. Penalties for Falsification of Reports. The *Act* provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both.
- I. Availability of Reports. Except for data determined to be confidential under *UAC R317-8-3.2*, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Executive Secretary. As required by the *Act*, permit applications, permits and effluent data shall not be considered confidential.
- J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the *Act*.
- K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

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- L. Severability. The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- M. Transfers. This permit may be automatically transferred to a new permittee if:
1. The current permittee notifies the Executive Secretary at least 20 days in advance of the proposed transfer date;
 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
 3. The Executive Secretary does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.
- N. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by *UCA 19-5-117*.
- O. Water Quality-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:
1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
 2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.
 3. A revision to the current Water Quality Management Plan is approved and adopted which calls for different effluent limitations than contained in this permit.
- P. Toxicity Limitation-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity (WET) testing, a WET limitation, a compliance schedule, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is detected during the life of this permit.